

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Emerson Nerat

Art Unit: 2612

Application No: 10/525,082

Examiner: V. U. Brown

Confirmation No: 5103

Filed: September 1, 2005

Atty. Docket No: 37114-214276

For: WIDE AREA AND LARGE CAPACITY
INTELLIGENT OBJECT TRACKING
SYSTEM AND METHOD

Customer No: 26694
PATENT TRADEMARK OFFICE

REQUEST FOR RECONSIDERATION OF
INFORMATION DISCLOSURE STATEMENT
SUBMITTED OCTOBER 2, 2009

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Madame or Sir:

In the Office Action dated January 5, 2010, the Examiner indicated that he did not consider the Foreign Patent Documents submitted by the Applicant via an Information Disclosure Statement on October 2, 2009. Applicant submits that the Information Disclosure Statement was in compliance with 37 CFR §§ 1.97 and .98 and the Examiner is respectfully requested to consider the listed documents.

This paper is submitted solely for the purpose of requesting reconsideration of the Information Disclosure Statement and is not intended to be fully responsive to the Office Action of January 5, 2010, for which an Amendment was filed on April 5, 2010.

Section 609 of the M.P.E.P. provides that “[o]nce the minimum requirements of 37 CFR 1.97 and 37 CFR 1.98 are met, the examiner *has an obligation* to consider the information” (emphasis added). Further, section 609.01 dictates that “[t]he examiner should inform applicant the reasons why a citation was not considered.” The Applicant respectfully submits that the Information Disclosure Statement in question met the minimum requirements of 37 CFR 1.97 and 37 CFR 1.98 but the Examiner improperly failed to consider the submitted references. Further, while the Examiner drew a line through the citations to show that they were not considered, the Examiner did not provide any explanation to the Applicant as to why the citations were not considered.

Under 37 C.F.R. § 1.97(c), the Office shall consider an Information Disclosure Statement if it is filed after a First Office Action and “before the mailing date of any of a final action under § 1.113, a notice of allowance under § 1.311, or an action that otherwise closes prosecution in the application” and the Applicant submits the appropriate fee. The Information Disclosure Statement of October 2, 2009 was submitted after the First Office Action and prior to a final action, notice of allowance or any action closing the prosecution; therefore, the Applicant suggests that the Information Disclosure Statement submission was timely. Further, the fee of \$180.00 was properly included.

Under 37 C.F.R. § 1.98, an Information Disclosure Statement must include a legible copy of each foreign patent (37 C.F.R. § 1.98(a)(2)(i)) or publication (37 C.F.R. § 1.98(a)(2)(ii)), a concise explanation of the relevance of the listed item (37 C.F.R. § 1.98(a)(3)(i)), and an English translation of foreign items, if available (37 C.F.R. § 1.98(a)(3)(ii)). Further, M.P.E.P. § 609.04(a)(III) provides that “submission of an English language abstract of a reference may

fulfill the requirement for a concise explanation” and that “[t]he requirement for a concise explanation of relevance is limited to information that is not in the English language.” “If no translation is submitted, the examiner will consider the information in view of the concise explanation” (M.P.E.P. § 609.04(a)(II)). With the Information Disclosure Statement submitted on October 2, 2009, the Applicant enclosed the following documents:

BA	WO-02/077942-A1	10 -03-2002	Ramos Rodriguez et al.	English abstract provided
BB	WO-01/37004-A1	05-25-2001	Bluetage A/S	English-language document, provided
BC	EP-0 851 377-A1	07-01-1998	Lucent Technologies Inc.	English-language document, provided
BD	EP-0 940 763-A1	09-08-1999	Lucent Technologies Inc.	English-language document, provided
BE	JP-2002-207079	07-26-2002	Denso Corp	English abstract provided
BF	JP-2002-114333	04-16-2002	Matsushita Electric Ind Co Ltd	English abstract provided
BG	JP-2002-183261	06-28-2002	Toshiba Corp	English abstract provided
BH	GB-2 365 683-A	02-20-2002	Simon D Fisher	English-language document, provided

The Applicant submits that, for each of the Foreign Patent Documents, an English-language document was submitted or an English abstract was provided. Therefore, the submissions with the Information Disclosure Statement fulfilled the inclusion requirements under 37 C.F.R. §1.98. For the Examiner’s convenience, copies of these documents are included herewith.

It is submitted that the Information Disclosure Statement submitted by the Applicant on October 2, 2009 is in compliance with 37 CFR §§ 1.97 and 1.98. Accordingly, the failure to consider the Foreign Patent Documents submitted via the Information Disclosure Statement was improper. The Applicant respectfully requests reconsideration of all references disclosed in the Information Disclosure Statement pursuant to M.P.E.P. § 609.

